

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

ELIZABETH ZACHARY, ON BEHALF  
OF HERSELF AND ALL OTHERS  
SIMILARLY SITUATED,

*Plaintiffs,*

V.

COBALT MORTGAGE, INC.,  
*Defendant.*



CIVIL ACTION NO. 4:16-CV-00754-ALM

# JOINT MOTION TO EXTEND MEDIATION DEADLINE AND STAY DISCOVERY

## JOINT MOTION TO EXTEND MEDIATION DEADLINE AND STAYING DISCOVERY

Defendant Cobalt Mortgage, Inc. (“Cobalt”) and Plaintiff Elizabeth Zachary hereby jointly request that the Court enter an order extending the mediation deadline and issuing a stay of discovery. All Parties agree to this extension and stay, and as explained below, good cause exists to extend the deadlines and stay discovery.

On March 22, 2017, the Court granted conditional FLSA certification and ordered the Parties to confer and then present the Court with a Joint Scheduling Order. Dkt. 24. Pursuant to the Court's Order, on July 12, 2017, the Parties submitted a Proposed Joint Scheduling Order. Dkt. 39. The Court has not yet ruled on the Parties' proposed schedule and no scheduling order has been entered.

Under the Proposed Joint Scheduling Order, the Parties proposed a mediation deadline of December 1, 2017. The Parties have since scheduled mediation on December 18, 2017, and agree to extend the mediation deadline to that date. The Parties also have agreed to stay discovery pending the outcome of the mediation. If mediation is unsuccessful, the parties agree to respond to any outstanding discovery within fifteen days of the mediation date and agree to

extend the close of discovery to March 2, 2018. The Parties further agree to the following post-mediation deadlines:

**DEADLINES<sup>1</sup>**

December 18, 2017	Mediation must occur by this date.
December 29, 2017	Deadline to disclose expert testimony pursuant to FRCP 26(a)(2) and Local Rule CV-26(b)
Six weeks after disclosure of an expert is made.	Deadline to object to any other party's expert witnesses. Objections shall be made by a motion to strike or limit expert testimony and shall be accompanied by a copy of the expert's report in order to provide the court with all the information necessary to make a ruling on any objection.
March 2, 2018	All discovery shall be commenced in time to be completed by this date.
May 3, 2018	Notice of intent to offer certified records.
May 3, 2018	Counsel and unrepresented parties are each responsible for (6 weeks before final pretrial contacting opposing counsel and unrepresented parties to conf.) determine how they will prepare the Joint Final Pretrial Order (See Local Rule CV-16(b) and Joint Proposed Jury Instructions and Verdict Form (or Proposed Findings of Fact and Conclusions of Law in nonjury cases).
June 8, 2018	Video Deposition Designation due. Each party who proposes to offer a deposition by video shall serve on all other parties a disclosure identifying the line and page numbers to be offered. All other parties will have seven calendar days to serve a response with any objections and requesting cross examination line and page numbers to be included. Counsel must consult on any objections and only those which cannot be resolved shall be presented to the court. The party who filed the initial Video Deposition Designation is responsible for preparation of the final edited video in accordance with all parties designations and the court's rulings on objections.
June 11, 2018	Motions in limine are due. File Joint Final Pretrial Order ( <i>See</i> <a href="http://www.txed.uscourts.gov">www.txed.uscourts.gov</a> )

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<sup>1</sup>The Proposed Joint Scheduling Order the parties submitted on July 12, 2017 included a dispositive motions deadline of October 9, 2017. Because that date has passed, the parties have not included a new dispositive motions deadline here. However, Cobalt reserves the right to file a dispositive motion, if necessary, at some point in the future. Plaintiff objects to Cobalt's filing of any dispositive motion as untimely.

June 28, 2018	<p>Responses to motions in limine are due.</p> <p>File objections to witnesses, deposition extracts, and exhibits listed in pre-trial order. (This does not extend deadline to object to expert witnesses.)</p> <p>File Proposed Jury Instructions/Form of Verdict (or Proposed Findings of Fact and Conclusions of Law)</p>
Date to be set by the Court. Usually within 10 days prior to final pretrial conf. July 13, 2018	<p>If numerous motions are filed, the court may set a hearing to consider all pending motions and objections.</p> <p>Final Pretrial Conference at 9:00 a.m. at the Paul Brown United States Courthouse located at 101 East Pecan Street in Sherman, Texas. Date parties should be prepared to try case. All cases on the Court's Final Pretrial Conference docket for this day have been set at 9:00 a.m. However, prior to the Final Pretrial Conference date, the Court will set a specific time between 9:00 a.m. and 4:00 p.m. for each case, depending on which cases remain on the Court's docket</p>
To be determined	<p>Jury selection and trial at the Paul Brown United States Courthouse located at 101 East Pecan Street in Sherman, Texas. Cases that remain for trial following the Court's pretrial docket will be tried between __ and __. A specific trial date in this time frame will be selected at the Final Pretrial Conference.</p>

The Court may modify any date on the Case Schedule for good cause. Fed. R. Civ. P. 16. Here, there is good cause to continue the mediation deadline and discovery deadline dates and issue a scheduling order consistent with the deadlines set forth above because (1) all the Parties have stipulated to the continuance and (2) the Parties are attempting to resolve this matter prior to trial. The Parties are requesting a brief extension to allow time to mediate and resolve this matter and to conduct discovery if necessary.

For the above-stated reasons, the Parties jointly request that the Court extend the mediation deadline until December 18, 2017, stay discovery pending mediation, extend the close of discovery to March 2, 2018, and extend various other deadlines.

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/s/ Ryan Hess

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**Certificate of Service**

I hereby certify that a true and correct copy of the above was sent on November 30, 2017 pursuant to the service requirements of the ECF/CM for the Eastern District of Texas which will notify all counsel of record.

/s/ Valerie Macan

Valerie Macan